

IN UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOSEPH L. BROWN,

Plaintiff,

v.

BRENNER, UNKNOWN PARTY,

Defendants.

Case No. 3:11-cv-00109-JPG-PMF

**MEMORANDUM AND ORDER**

This matter comes before the Court on Magistrate Judge Philip M. Frazier's Report and Recommendation ("R & R") (Doc.36) wherein it was recommended defendant Brenner's Motion for Summary Judgment (Doc. 30) be granted and judgment be entered in favor of Brenner. Plaintiff Brown did not respond to the motion for summary judgment. Magistrate Judge Frazier further recommended the unknown party be dismissed from the action without prejudice in accordance with Federal Rules of Civil Procedure 4(m) and 41(b), thus closing the case.

After reviewing a magistrate judge's report and recommendation, the Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in the report. Fed. R. Civ. P. 72(b). The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. *Id.*

The Court must review *de novo* the portions of the report to which specific written objections are made. *Id.* "If no objection or only partial objection is made, the district court Judge reviews those unobjected portions for clear error." *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). No objections were made to the R&R and after reviewing it, the Court finds it is an accurate application of the law.

Accordingly, the Court hereby **ADOPTS** the R & R (Doc.36) **in its entirety** and **GRANTS** Brenner's Motion for Summary Judgment (Doc. 30). The Court **DISMISSES** the unknown party **without prejudice**. As there are no remaining issues, the Court directs the Clerk of Court to enter judgment accordingly.

**IT IS SO ORDERED.**

**DATED: June 12, 2012**

s/J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**